

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

DAVID POWELL,	)	
	)	
Plaintiff,	)	
	)	Case No. 08 cv 2755
vs.	)	Judge Charles R. Norgle, Sr.
	)	Courtroom 2341
CITIBANK (SOUTH DAKOTA), N.A.,	)	Magistrate Judge Jeffrey Cole
	)	Courtroom 1838
Defendant.	)	

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**MOTION TO DISMISS AMENDED COMPLAINT**  
**BY CITIBANK (SOUTH DAKOTA), N.A.**

Pursuant to the Federal Rule of Civil Procedure 12(b)(6), defendant Citibank (South Dakota), N.A. ("Citibank") hereby moves this Court for the entry of an Order dismissing the First Amended Complaint filed by Plaintiff David Powell ("Plaintiff") with prejudice and without leave to amend on the grounds that the Complaint fails to allege facts sufficient to state a claim against Citibank. Specifically, Plaintiff fails to allege facts establishing claims for negligent misrepresentation (Count I) or violation of the Fair Credit Reporting Act (Count II), and such claims also fail as a matter of law based on the economic loss doctrine and the fact that there is no private right of action under 15 U.S.C. § 1681s-2(a), the FCRA provision that Plaintiff purports to sue under.

In support of this Motion, Citibank submits the accompanying Memorandum of Points and Authorities.

Respectfully submitted,

s/Vincent Vigil  
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**CERTIFICATE OF SERVICE**

I hereby certify that on July 17, 2008, I electronically filed the foregoing with Clerk of the Court using the CM/ECF system which sent notification of such filing to the following: N/A and I certify that I have mailed by United States Postal Service the document to the following non CM/ECF participant:

David Powell  
P.O. Box 5282  
Lansing, Illinois 60438

Respectfully submitted,

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